

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EUGENE KENNETH JONES,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:06 CV 767 RWS
)	
TROY STEELE,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before me on Petitioner's Motion for Release [#111].

On September 9, 2009 I partially granted Petitioner habeas relief and ordered Respondent to commence a new trial within 90 days after the Order became final, including any appeals which may be taken [#71]. The judgment of the United States Court of Appeals for the Eighth Circuit affirming my order was issued on February 14, 2011. Respondent did not file a petition for a writ of certiorari with the United States Supreme Court.


As argued at today's hearing, Petitioner asserts Respondent has failed to commence a new trial 90 days after my September 9, 2009 Order became final. Petitioner asserts Respondent has failed to comply because a new trial has not commenced within 90 days of the Eighth Circuit's judgment. However, Respondent had 90 days (or until May 16, 2011) in which to file a petition for a writ of certiorari with the United States Supreme Court. SUP. CT. R. 13.1; SUP. CT. R. 30.1. It was after this time expired that Respondent's time to commence a new trial began. As a result, I will deny Petitioner's Motion without prejudice.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's Motion for Release [#111] is **DENIED**

without prejudice.

IT FURTHER ORDERED that Petitioner and Respondent are to file a status report with the Court, jointly or separately, on **Thursday, July 21, 2011.**



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 7th day of July, 2011.